



Highway Real Estate Peer Exchange

Hosted by the Wisconsin Department of Transportation

September 20-24, 2004

**Highway Real Estate Peer Exchange
September 20 - 24, 2004**

**Hosted by the
Wisconsin Department of Transportation
Bureau of Highway Real Estate**

**Funded by the
Wisconsin Department of Transportation
Research, Development & Technology Transfer Program**

Final Report



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Summary

The Wisconsin Department of Transportation (WisDOT) Bureau of Highway Real Estate (BHRE) is working to streamline and optimize many of its program areas in the face of budget cuts, restructuring, and inefficiencies. In an effort to be as successful as possible in these efforts, WisDOT hosted a peer exchange from September 20-24, 2004. The goal of the meeting was to provide an opportunity for Wisconsin and all other participating states to learn from the successes and experiences of others.

Representatives from six state DOTs, along with FHWA representatives from Illinois and Washington D.C., gathered in Madison, Wisconsin to share procedural best practices in the areas of valuation methodologies; consulting and in-house staffing; local public agency and staffing alternatives; and property management. WisDOT real estate representatives from all eight districts participated in the event. The meetings consisted of both presentations and active discussions as the group worked to share key information on participants' respective programs.

Funded by WisDOT's Research, Development and Technology Transfer (RD&T) Program, the exchange proved to be a very effective use of State Planning and Research (SP&R) dollars. Although WisDOT initiated and funded the event, the out-of-state participants also left the exchange full of new ideas for improving their states' real estate and right-of-way programs.

This report summarizes the best practices that came out of the peer exchange discussions throughout the week. It is the result of a collaborative effort between WisDOT, FHWA, and CTC & Associates (for the RD&T Program). WisDOT's Bureau of Highway Real Estate will generate a separate report containing planned actions and recommendations for Wisconsin's real estate program.

Objectives

The main theme of this exchange was Procedural Best Practices. Discussions focused on the following topics with the aim of establishing best practices and sharing lessons learned. See Appendix B for a full description of WisDOT's current program operations and specific areas of concern that were addressed during the exchange.

Valuation Methodologies

- Tools, including short format appraisals.
- Alternatives to appraisals, including nominal valuation methods.
- Training and retention of current staff.

Consultants & In-house Staffing Issues

- What and how much gets consulted out.
- Methodologies for consulting.
- Consultant qualifications and training programs.
- Standards and measurements for agent productivity and performance.
- Education and training of in-house staff.
- Attracting qualified appraisers and negotiators.
- Retaining technical expertise and balancing with consulting.

LPA & Staffing Alternatives

- Administering and resourcing Local Public Agency programs.
- Degree of program oversight.
- Using grant programs.

Property Management

- Surplus land sales.
- Air space leases.
- Encroachments.
- Selling lands held in Highway Easement.

In addition, several discussions under a “Lucky Strikes Extra” title gave participants an opportunity to follow up on related topics and to briefly address common concerns in other real estate areas. See Appendix A for the complete peer exchange agenda.

Participants

The following representatives from state Departments of Transportation participated in the exchange:

- Linda Anderson, Washington DOT
- Bernard Banker, Iowa DOT
- Eric Smith, Michigan DOT
- Douglas Maitland, Ohio DOT
- Kenneth Towcimak, Florida DOT
- Gary Fawver, Pennsylvania DOT

In addition, the following FHWA representatives participated:

- Reginald Bessmer, FHWA-Washington, D.C.
- Kathleen Kendrick, FHWA-Washington, D.C.
- Don Keith, FHWA-Illinois
- Justin Luther, FHWA-Illinois
- Roger Szudera, FHWA-Wisconsin

WisDOT had outstanding participation from the following real estate managers and staff around the state:

Craig Andersen	Allen Holmstrom	Cynthia Michalski
Anna Anton	Margaret Hutnik	Olabunmi Olapo
Joel Batha	Patricia Jackson-Ward	Norman Pawelczyk
Marvin Braund	Shau-Nong Jea	Kip Pelegrin
Jay Buchite	G. Joe Johnson	Ronald Polacek
Rebecca Burkel	Abe Kaalele	Russell Prusak
Fran Coenen	David Kircher	Tonia Rice
Earl Cramer	Larry Knutson	Debra Sinkula
Richard Dickson	Rebecca Krugman	Larry Stein
Michaeleen Erickson	Jeri Krugman	Roger Szudera
Joseph Farmer	James Kuehn	Carrol Waldenberger
Dennis Fonger	Joe Lacenski	Kenneth Wickham
Connie Griesbach	Robert Leggate	Margaret Zastrow
Richard Happel	Cynthia Magray	

The individuals below represented WisDOT’s RD&T Program at the exchange:

Nina McLawhorn, WisDOT Research Administrator
Kim Linsenmayer, CTC & Associates
Maryellen Charbonneau, CTC & Associates

In addition, Claudia Orvis from WisDOT's Office of Organizational Development Services facilitated the week's discussions.

Preparing for the Exchange

A planning team consisting of representatives from RD&T, BHRE and FHWA spent six months planning the exchange, determining which topics to pursue, which states to invite, what format the meetings should take, and what logistically should take place to ensure a successful meeting. Below are the members of the planning team:

Rebecca Krugman, WisDOT Bureau of Highway Real Estate
Patricia Jackson-Ward, WisDOT Bureau of Highway Real Estate
Richard Happel, WisDOT Transportation District 3 Real Estate
Michaela Erickson, WisDOT Transportation District 4 Real Estate
Joseph Farmer, WisDOT Transportation District 5 Real Estate
David Kircher, WisDOT Transportation District 7 Real Estate
Roger Szudera, FHWA-Wisconsin
Kim Linsenmayer, CTC & Associates on behalf of RD&T

With the help of the RD&T Program, the planning team conducted an informal survey of state DOTs in an effort to identify which states shared the same concerns as WisDOT, were similarly structured, and had embraced best practices that participants in the exchange could gain from. See the full survey results in Appendix C.

To help the out-of-state participants prepare for the exchange, the planning team sent participants extensive background information about WisDOT's real estate program in the exchange topical areas, along with a list of concerns to be addressed during the exchange. State DOT and FHWA representatives were asked to prepare short presentations on their respective programs for each topic of the exchange.

Key Observations and Best Practices Discussed

Valuation Methodologies

- Consider raising waiver limits. Some states use \$10,000, others \$25,000.
- Increased appraisal review limits at District or Regional levels.
- Use of fee reviewers for peak times.
- Administrative Revision approval up to \$500 to experienced real estate specialists in the field.
- Difficult to attract staff appraisers because of salary constraints.
- Accelerate training program.
 - Increase appraisal knowledge of all staff.
 - Consider pooled funding for offering classes that are too expensive for one state to coordinate alone.
 - Make training part of the work plan for program directors.
 - If possible, have staff appraisal reviewers do occasional appraisals to keep them sharp.
 - Require the passing of a test at the end of training sessions.
 - Reward employees with a degree or license.

- Better define and explain the tie between Uniform Standards of Professional Appraisal Practice and the Uniform Act Regulations under 49 CFR Part 24.
- Develop and use electronic appraisal formats and databases.
- Improve contracting process for right-of-way services.
 - Consider Pennsylvania's process that incorporates both low bid and best value. Low bid is essentially WisDOT's Chapter 16 process. Best value contracts have criteria to evaluate best value quotes and are used on complex specialty appraisals. If appraisal price is \$3,000 or under, state can pick the appraiser.
 - More requirements for appraisal bid acceptance (i.e. Experience, past history, current work load, etc.) and not just look entirely at the low bid.
 - Trend toward qualification-based negotiated price contracts and fewer low bid contracts.
 - Trend toward more flexible and longer term "various-various" types of contracts. These provide state DOTs flexibility in their use of consultants. For example, the state could use a consultant on a variety of projects in various counties in a given state up to a maximum dollar ceiling and up to a maximum period of time. The goal is to get the best quality contractor for a reasonable negotiated rate that allows maximum flexibility for the state.
- Michigan's evaluation process for appraisers. If appraiser receives three bad ratings they are taken off list (probation period of some sort) or can be suspended until they get more training.
- Simpler appraisal formats for low value, non-complex acquisitions.

Consultants & In-house Staffing

- More formalized, continuous real estate training programs for all levels of state staff and consultant staff. Establishment of training manuals and a qualified real estate DOT trainer position. (Look at examples of training manuals such as Pennsylvania's.)
- Focus on the most critical real estate services the state should perform and put resources toward those...consult out the rest. (Example: Contract out more negotiations and retain more appraisal work.)
- Attendance at DOT real estate training should be mandated for consultants to be approved for work on state projects.
- Illinois' price range charts are broken down by district in their state to negotiate prices on consultant contracts. This makes it more competitive and also a cost saver for the state.
- Maintain good procedure manuals for consultants.
- Think of consultants as partners, not adversaries. Train in-house staff to understand that consultants are needed and are on the same team. Along with this, need to better train consultants on program standards so that they produce better work, get more results, and give more of an effort. We want their work to be just as good as if we were doing it ourselves. Teaching them a thorough process will alleviate in-house staff from having to correct consultant work.

- Very important to communicate expectations to consultants.
 - Ohio employs a communication program called “scoping” to let consultants know what ODOT’s needs are and to identify those consultants who perform high quality work.
 - Michigan holds an “Orientation for Fee Appraisers”. Tells consultants what it takes to get on list, stay on list and what DOT will pay, etc. Not an appraisal instruction training.
- Consultants need to be managed, and it’s time intensive. This was one of the most important observations regarding the use of consultants. Plan on one hour of management time for every four hours of consultant work.
- In Ohio, Office of Consulting Services and the district get together at end of projects to rate the consultants, cite examples, show deficiencies.
- Pre-qualify consultants via an on-line application.
- WisDOT best practice – contracting out the title work.
- FHWA is in process of developing a division office resource guide for managing consultants. They also offer several courses around the country on the consultant process. Classes will be offered online in the spring.
- Allow new or existing employees to shadow senior agents and learn from them.
- Develop real estate awareness/overview training course for engineers and other non-real estate staff.
- Obtain real estate studies done by other State DOTs (i.e., Before and After study by Virginia DOT, proximity study by Maryland, consultant vs. in-house cost study by Ohio).
- Establish effective communication in decentralized structures. Frequent monthly or quarterly meetings between central office and district management.

LPA & Staffing Alternatives

- Functional User Group meets twice a year in Wisconsin.
- In Washington, headquarters handles most LPA work. Each region also has a LPA coordinator. Do after-the-fact file reviews. Locals invited to all training courses. Workshops and specific training courses given regularly.
- PennDOT does after-the-fact reviews, requires locals to sign a certificate stating that all requirements were followed.
- Michigan conducts after-the-fact LPA project reviews but finds them less valuable than early project involvement.
- Early involvement in the planning stage is important for streamlining the process.
- Make sure LPAs performing well by completing evaluation reports.

Property Management

- Michigan uses a “Relinquishment of Easement” process to release easements and charges a flat rate administrative processing fee of \$500.
- Pennsylvania and Oregon have tried selling property on E-Bay.
- General rule is to sell remnants at no less than market value but most states have exceptions to that rule.
- Most states use reversionary clauses when selling to public entities.
- Illinois hired a consultant to inventory what land was held in State name.
- Many DOTs can fine for highway encroachments. WisDOT can only charge a dollar a day once it's identified.
- Wisconsin's use of rent formula is effective.
- Ohio does things in advance of project, gives surplus parcels value before acquisition in case they want to use it during negotiations.
- Use realtors to develop their sales data book.
- Early buyouts can be used as an on-site project field office.

Other topics

- Right of way acquisition on Design/Build projects has proven to be disastrous in Ohio and Florida. Keep r/w in-house if you must include in Design/Build.
- Although Minnesota Design/Build project was considered a success overall, real estate processes were compromised and significant monies were paid for r/w acquisitions. It was done in-house using work sharing among districts. Developed a footprint upfront and any design changes after that were the responsibility of the consultant.
- Outdoor advertising
 - Using consultants to acquire signs.
 - Measuring inspection for signs is consulted out by some states.
 - Michigan developed a small sign compensation schedule for on-site signs.
 - Everyone has problems with signs/billboards that need to be acquired/removed for right-of-way projects. Are they real estate or personal property? Some states, like Illinois, can use Transportation Enhancement funds or other funds to acquire and remove non-conforming billboards as a highway beautification project, saving themselves the headache of having to deal with the billboards when acquiring the new project right-of-way.
 - Get out in advance of project to get rid of off premise signs. Buy them out ahead of time. Same idea with driveways, get out early and attempt to limit size of driveways.
- WisDOT's performance measures.
- Incentive bonus payments.
 - Michigan: \$500 for small takings if closed within 30 days, \$1000 for residences if closed within 30 days and \$2000 for businesses if closed within 30 days. Additional move incentive if they move within 60/90 days.
 - Florida adds an incremental bonus to their initial offer up front for performance within a specified period of time. All owners are offered that incentive.

- WisDOT's User Groups meetings, annual workshops, and managers meetings.
- Once a year, IDOT and FHWA-IL have a high level meeting to reach a consensus on where they are with respect to risk. This allows them to figure out where they need to perform joint reviews.
- Knowledge sharing among states.
- Most Decentralized organizations give maximum delegation of authority to the lowest (qualified) level.
- Wisconsin's title insurance method may be useful in Ohio.
- May make sense to combine surveys of property owners. Have federal and state offices both go together to make property owners feel valued and important.

Appendix A

Peer Exchange Agenda

WisDOT Bureau of Highway Real Estate Peer Exchange Agenda

Monday, September 20, 2004
Welcome and Program Overviews

TIME	ACTIVITY
2:00 – 2:10	Becky Krugman, Wisconsin DOT Welcome from BHRE and goals of exchange.
2:10 – 2:20	Nina McLawhorn, Wisconsin DOT Welcome from WisDOT RD&T Program.
2:20 – 2:30	Becky Krugman, Wisconsin DOT Overview of WisDOT BHRE structure and program. Brief recap of information sent out ahead of time to states. Lead into introductions and high-level program overviews by other states.
2:30 – 2:40	Linda Anderson, Washington DOT
2:40 – 2:50	Bernard Banker, Iowa DOT
2:50 – 3:00	Gary Fawver, Pennsylvania DOT
3:00 – 3:10	Doug Maitland, Ohio DOT
3:10 – 3:20	Eric Smith, Michigan DOT
3:20 – 3:40	BREAK
3:40 – 3:50	Ken Towcimak, Florida DOT
3:50 – 4:00	Don Keith, FHWA – Illinois
4:00 – 4:10	Kathy Kendrick, FHWA – Washington D.C.
4:10 – 4:50	Discussion Brief facilitated questions and answers.

Tuesday, September 21, 2004
Valuation Methodologies and Lucky Strikes Extra

TIME	ACTIVITY
8:00 – 8:10	Claudia Orvis, Wisconsin DOT Welcome and brief overview of the 3-day topics and agenda.
8:10 – 8:20	Becky Krugman, Wisconsin DOT Introduce Valuation Methodologies topic and WisDOT perspective. Lead into overviews on Valuation Methodologies by other states.
8:20 – 8:50	Bernard Banker, Iowa DOT
8:50 – 9:20	Gary Fawver, Pennsylvania DOT
9:20 – 9:50	Ken Towcimak, Florida DOT
9:50 – 10:10	Kathy Kendrick, FHWA – Washington D.C
10:10 – 10:30	BREAK
10:30 – 10:50	Eric Smith, Michigan DOT
10:50 – 11:10	Linda Anderson, Washington DOT
11:10 – 11:30	Doug Maitland, Ohio DOT
11:30 – 11:50	Don Keith, FHWA – Illinois
11:50 – 12:45	LUNCH
12:45 – 2:15	Discussion Facilitated discussion/question and answer session on Valuation Methodologies.
2:15 – 2:30	BREAK
2:30 – 4:30	Lucky Strikes Extra Session Discussions on other selected topics of interest to participants. See last page.

Wednesday, September 22, 2004
Consultant Use & Staffing Issues and Lucky Strikes Extra

TIME	ACTIVITY
8:00 – 8:10	Claudia Orvis, Wisconsin DOT Welcome, recap of Tuesday meeting, and overview of goals for the day.
8:10 – 8:40	Michaelleen Erickson, Wisconsin DOT Introduce Consultants & Staffing topic and WisDOT perspective. Lead into overviews by other states on Consultants & Staffing.
8:40 – 9:10	Ken Towcimak, Florida DOT
9:10 – 9:35	Gary Fawver, Pennsylvania DOT
9:35 – 10:00	Linda Anderson, Washington DOT
10:00 – 10:20	Doug Maitland, Ohio DOT
10:20 – 10:40	BREAK
10:40 – 11:00	Eric Smith, Michigan DOT
11:00 – 11:20	Bernard Banker, Iowa DOT
11:20 – 11:40	Don Keith, FHWA – Illinois DOT
11:40 – 12:00	Kathy Kendrick, FHWA – Washington D.C.
12:00 – 1:15	LUNCH
1:15 – 2:45	Discussion Facilitated discussion/question and answer session on Consultants and Staffing.
2:45 – 3:00	BREAK
3:00 – 4:00	Lucky Strikes Extra Session Discussions on other selected topics of interest to participants. See last page.

Thursday, September 23, 2004
LPA and Property Management

TIME	ACTIVITY
8:00 – 8:10	Claudia Orvis, Wisconsin DOT Welcome, recap of Wednesday meeting, and overview of goals for the day.
8:20 – 8:30	Joe Farmer, Wisconsin DOT Introduce LPA topic and WisDOT perspective. Lead into informal LPA overviews by other states.
8:30 – 8:50	Linda Anderson, Washington DOT
8:50 – 9:10	Doug Maitland, Ohio DOT
9:10 – 9:25	Gary Fawver, Pennsylvania DOT
9:25 – 9:40	Eric Smith, Michigan DOT
9:40 – 9:55	Bernard Banks, Iowa DOT
9:55 – 10:10	Ken Towcimak, Florida DOT
10:10 – 10:30	BREAK
10:30 – 10:45	Don Keith, FHWA – Illinois
10:45 – 11:00	Kathy Kendrick, FHWA – Washington D.C
11:00 – 12:00	Discussion Facilitated discussion/question and answer session on LPA.
12:00 – 12:45	LUNCH
12:45 – 1:05	Dick Happel, Wisconsin DOT Introduce Property Management topic and WisDOT perspective. Lead into informal Property Management overviews by other states.
1:05 – 1:20	Ken Towcimak, Florida
1:20 – 1:35	Bernard Banks, Iowa
1:35 – 1:50	Eric Smith, Michigan
1:50 – 2:05	Doug Maitland, Ohio
2:05 – 2:30	BREAK
2:30 – 2:45	Linda Anderson, Washington DOT
2:45 – 3:00	Gary Fawver, Pennsylvania
3:00 – 3:15	Don Keith, FHWA – Illinois
3:15 – 3:35	Kathy Kendrick, FHWA – Washington D.C.
3:35 – 4:30	Discussion Facilitated discussion/question and answer session on Property Management.

Friday, September 24, 2004
Final Report and Wrap Up

TIME	ACTIVITY
8:00 – 8:10	Claudia Orvis, Wisconsin DOT Welcome, recap of Thursday, and overview of goals for the day—wrap it all up!
8:10 – 10:00	Discussion Facilitated discussion of what participants are taking away from exchange—best practices, lessons learned, potential opportunities, etc.
10:00 – 11:00	Networking and final report formatting and printing.
11:00 – 11:15	Becky Krugman Closing remarks and distribution of report.

Potential Topics for Lucky Strikes Extra Sessions

- Establishing standards and testing for fee appraisers and reviewer
- Requiring reviewers to complete an agency established minimum number of complex appraisals each year to maintain high expertise levels and professionalism.
- Feedback or results from Florida, Michigan and Washington from their appraisal review pilot
- Streamlining appraisal review by developing and implementing a “short form” review process for low value and uncomplicated appraisals
- Land consolidation and a means of disposing of surplus properties. Has any State considered such a pilot?
- Experiences with Design/Build projects with r/w
- Use of an escrow company to close parcels
- Incentive offers to accelerate acquisition
- Incentive offers to accelerate relocation
- Use of sketch maps to accompany the offer on administrative determinations of just compensation, in order to avoid waiting for completion of the final map.
- Immediate payment to the property owner for low value property interests
- Allowing field negotiators full authority for administrative settlements up to a set maximum dollar amount
- Use of reversionary clauses when selling property for less than fair market value for a public purpose.
- Sale or transfer of surplus land to other state agencies or local units of government for less than fair market value? If so, under what circumstances?
- If states are able to offer financing as a means of attracting buyers for surplus lands.

Appendix B

WisDOT Background Information

WisDOT Structure and Statistics

Basic Hierarchy:

- Governor
- Secretary of Transportation
- 6 Division Administrators
- Various Directors in each Division
- Managers and/or Supervisors report to each Director

Decentralized: Real Estate staffing consists of Central Office Real Estate (Bureau of Highway Real Estate) and Real Estate units in each of 8 District Offices. Central Office and Districts are housed in separate Divisions. Total statewide real estate staff = approximately 110.

Division of Transportation Infrastructure Development

- Central Office Real Estate (Bureau of Highway Real Estate) has 15.5 positions:
 - 2 Managers (1 with real estate background)
 - 5 Review Appraisers
 - 1 Relocation/Property Management Specialist
 - 1 Acquisition/LPA Specialist
 - 1 Contracting, Plat & R/W Certification Specialist
 - 1.5 Financial Specialists
 - 1 IT Specialist
 - 1 Program Analyst in charge of Program Manual, Performance Measures and SW Training
 - 1 Records Manager/Program Assistant
 - 1 Surplus Land Coordinator
- C.O. Real Estate is currently a separate Bureau with a vacant Director position. The new reorganization will combine Real Estate into a larger Technical Services bureau of about 85 people that includes:
 - Surveying and Mapping
 - Geo-technical Section (previously from Construction)
 - Pavements Section (previously from Construction)
 - Quality Management Section-Aggregate, Chemical & Materials testing (previously from Construction)

Division of Transportation Districts

- District offices are generally comprised of four business areas – Project Development, Technical Services, Systems Planning and Operations and Business Services. Real Estate resides within Technical Services Office, which also includes Environment, Geo-technical, Materials, R/W Plats, Surveys, Utilities, Outdoor Advertising, Pavement Design.
 - Each Technical Services Business Area is managed by an engineer or previous business manager
 - 6 of the 8 districts have supervisors with real estate backgrounds
 - Size of real estate units range from 3 or 4 in the northern districts to 23 in our largest urban district near Milwaukee

Size of State Real Estate Program in FY03

- 80 State real estate projects
 - Most projects in Wisconsin do not put federal dollars in the real estate
- \$92M real estate costs expended
- 1892 parcels acquired
 - 51% of parcels were appraised
 - 49% of parcels used appraisal waivers
 - 27% of parcels were administratively revised (administrative revision costs were 34% over Offering Prices)
 - 7% or 138 parcels were condemned
 - 69 or less than 4% of all parcels were appealed

Surplus Land Inventory

- Approximately 2100 surplus parcels in the inventory (approx. 1400 have been sold)
- Approximately 500 are non-surplus (held for future r/w need or non-saleable such as a landlocked parcel)
- A typical average year of sales is approximately 125 parcels at about \$2.5M in revenue

Statewide meetings

- Almost every functional area has a User Group established which consists of at least 1 functional coordinator from CO and each district. These Users Groups meet about twice a year to share best practices, provide training, present unique case studies and recommend policy changes.
- Central Office and District Real Estate and Technical Services management meet quarterly to discuss statewide managerial issues, share best practices, discuss policy changes recommended by Users Groups

Identified Issues in Wisconsin

- Replacement of the Department's real estate management positions with individuals that have no real estate training or experience.
 - a. High-level approval authorities that have been given to these managers and supervisors for administrative and legal settlement decisions?
 - b. All technical guidance, on-the-job training and mentoring falls to the advanced agent level or central office real estate
 - c. Central Office Real Estate is at or below critical mass and its ability to provide "adequate" technical guidance and training is in question
 - d. The Department structure has eliminated virtually any management career paths for our real estate specialists

Appraisal

Wisconsin Statutory Requirements

- An appraisal must be made of all property to be acquired and the appraiser must confer with one of the owners or their personal representative, if reasonably possible.
- The acquiring agency must provide the owner with a full narrative appraisal
 - A full before and after appraisal is only required for condemnation purposes. If a parcel must be condemned, the DOT will update or prepare a new appraisal for litigation.
- The acquiring agency must offer to acquire uneconomic remnants concurrently with the required purchase.
- Property must be appraised based on its most advantageous use but only such use as actually affects the present market value
- No compensation for police power action
- Appraisers must ignore any increase or decrease in value prior to evaluation that was caused by the proposed public improvement
- For a partial taking other than an easement, Wis. Statutes require DOT to pay the greater of either the fair market value of the property taken or the sum determined by the difference in the before and after values.
- Damages must be allocated
- If the appraiser determines that the part to be acquired has the potential to be independently saleable, he must make a separate analysis of the part using whatever valuation approaches are appropriate
- Special benefits (an enhanced value which occurs to a "specific" property because of a public improvement) accruing to the property that affect its market value can be considered and used to offset the market value of the property acquired and any severance damages occurring to the property
- Disclosure of Appraisal Reports: Wisconsin law requires DOT to provide to the owner copies of all appraisals prepared by the State for his property. At this point, the law has been interpreted to mean that even completed appraisals that may have been rejected or unapproved by a Reviewer must be presented to an owner.
- Property Owner Appraisals: Wisconsin law allows a property owner to obtain his own appraisal by an appraiser of his choice and will reimburse the owner for the costs of that appraisal as long as it reaches us within 60 days, follows appropriate appraisal guidelines (provided to the owners appraisal) and the appraisers fee is reasonable.

General appraisal practices

- Only one appraisal of each parcel shall be obtained except in those cases where the acquisition presents a complex appraisal or negotiation problem
- If market data is available, the appraiser shall utilize the Sales Comparison Approach. The greater weight is generally given to the Sales Comparison Approach with the other approaches adding further support. Typically there will be few, if any, properties involved with WisDOT's acquisition program that will require use of an income approach. There ought to be enough market data for the appraiser to prepare a Sales Comparison Approach, which would have greater reliability than would the income approach. Discounted Cash flow analysis is a recent variation of the income approach which has some application for valuing income producing portions of property such as sign sites or as a method of estimating damages due to projected rent loss
- A Sales Study must be developed when a project involves a number of parcels and especially when there is a variety of land uses to be appraised.
- A Sales Study should contain a general description of the project area and neighborhood, an analysis of real estate trends and property values, individual sales data sheets for each comparable sale, a summary of market data worked up by each type or classification and a location map showing all sales locations

- A Fencing Cost Guideline is developed and updated each year based on Boeckh's Agricultural Cost Modifier for determining cost of most agricultural fencing. (Attachment A)
- Wisconsin has developed a chart used to estimate contributory value of landscaping changes (Attachment A)
- Wisconsin does not pay for loss of business
- A Project Management Conference between the district and central office should be held prior to the appraisal process to develop a plan for the appraisal and review of the project. Attendees should include the District and CO Reviewers, the District Real Estate Supervisor, the appraiser if already selected and, if appropriate, the relocation agent. Plats and plans should be available and a field inspection of the project is recommended.

Off-Premise Signs

- In most instances off premise signs are considered personal property belonging to a sign company and located on a leased site. They are eligible for moving expenses on a relocation claim. (See attachment B for Sign Cost Schedule).
- If a sign cannot be moved or if the sign is non-conforming, the sign is valued and purchased

Access

- If the access change is based on police power, generally no compensation is paid
 - Example: The number of access points to the state highway are eliminated, but the owner is left with reasonable alternative access to a side road
 - Example: A median is built in front of a commercial property allowing only a right-in or right-out in the after condition
- When access rights are being acquired, the appraiser must consider them in the appraisal
- If changes in access are curable, a cost to cure is often the most appropriate measure of damage
- Internal circuitry of travel is a compensable damage
- External circuitry of travel may or may not create a decrease in value. The right of access does not include the right to the flow of traffic on a particular highway. If there is a compensable damage, it must be because of the loss of access, not traffic.

Appraisal Review and the Offering Price

- Designated District Review appraisers may review and approve offering prices of non-complex whole or strip appraisals that:
 - Were identified or could be identified under the \$5000 waiver process
 - Abbreviated standard appraisal reports up to \$10,000 with damages to the remaining land that do not exceed \$2000 and can be logically explained
- All complex appraisals and those that do not meet the above requirements must be reviewed and approved by Central Office Review Appraisers
- District Reviewer qualifications: Must have completed a basic appraisal principles course, must have a minimum of 5 years experience doing the type of appraisal being reviewed. Appraisal certification is preferred but not required
- Central Office Reviewer qualifications: Must have advanced appraisal education including a course in the income approach and must have experience working with all types of reports being reviewed including detailed, complex appraisals. General appraiser certification is preferred but not required.
- The use of fee review appraisers is an option that WisDOT, to date, has not utilized. We do have one retired reviewer that is currently working as a Limited Term Employee.

- It is recommended that a district agent or program assistant do an objective review of the report (before sending to the Reviewer) to check if area and interests agree with the latest plat, check to ensure that owner was offered opportunity to accompany appraiser on inspection, that a certificate of appraisal is included and check for math calculations and typographical errors. (Not often done in today's environment)
- Reviewers should field inspect the appraised property and the comparable sales considered by the appraiser. If field inspection is not made, the file must cite supporting rationale.
- Reviewer does a subjective review of the report to determine if it:
 - Is complete in accordance with the State's appraisal specifications
 - Follows accepted appraisal principles and techniques
 - Contains or makes reference to information necessary to explain, substantiate and document conclusions and estimates of value
 - Includes consideration of compensable items, damages and benefits and do not include compensation for non-compensable items under State law.
 - Contains an identification or listing of buildings, structure, improvements and other fixture, which are part of the real property.
 - Contains the estimate of just compensation and for damages to remaining property in the case of a partial acquisition
 - Has considered special benefits
 - Has considered if the part taken can be considered as a separate entity
 - Has a valid sales comparison approach, has sufficient factual data and verification for each comparable sale and adjustments to sales are logical
 - Has a proper allocation of damages
 - Has appropriate photographs, sketches, maps, comparable sales sheets and sales location map
- Reviewers may correct/edit a report for minor mathematical or typing errors and supplement it with factual data that has been omitted such as project/parcel number, owner names, location, zoning or present use of subject property or comparables, etc. when such errors or supplements do not affect the final value conclusion.
- The Reviewer will discuss more serious errors or concerns with the appraiser and when appropriate, ask the appraiser to submit corrections or revisions. Significant changes or concerns should be presented to the appraiser in writing and should become a part of the review file
- If the Reviewer and Appraiser cannot agree on the need for a change or if satisfactory revisions/corrections cannot be obtained, the Reviewer then becomes the appraiser and may appropriately increase or decrease the value and must support those changes with the same level of documentation as would be required if the Reviewer were writing the appraisal. When the changes are so extensive that they constitute a new appraisal valuation, a review by another review appraiser is required. An entire new appraisal report is typically not required

Issues Identified in Wisconsin

- Are WisDOT appraisal formats efficient? Are there modifications we would want to make?
- WisDOT struggles with access issues: A clear understanding of when police power applies and when access must be acquired. (Example: internal circuitry of travel on a service station that has its access limited or moved so that semi trucks can no longer access pump islands). In Wisconsin, driveway permits can be revoked by DOT. How do other States handle these issues?
- WisDOT struggles with "valuing" off-premise, outdoor advertising signs that cannot be relocated. (We consider them personal property). How do other States handles these issues?
- To date, WisDOT does not pay for loss of business, but that battle gets more difficult every year.

- Our current appraisal contracting process may be hindering our ability to hire the more qualified appraisers.
- There is an inadequate pool of qualified fee appraisers in Wisconsin. Have other States implemented strategies to address this issue?
- WisDOT has not fully required the submission of appraisal reports in an electronically format. Are there any States who are currently requiring electronic appraisal reports? If so, has it had a positive affect on turnaround times for correction submissions? Are there other efficiencies that have been realized from the use of electronic appraisal reports?

**Waiver of Appraisal
a.k.a. "Nominals"
\$5,000 Limit in Wisconsin**

- Only exception to the \$5,000 limit is the addition of a cost to cure to replace fencing
- Parcels identified for this process must be:
 - Non-complex
 - Have adequate market data available
 - Parcels where the highest and best use is the present use and is not changed by the proposed improvement
 - Parcels with no severance damages to improvements, where damages to the remainder do not exceed \$2000 and where no special benefits have been identified
- The entire process should be done using a single real estate agent.
- Typically the same agent prepares the sales study, determines the nominal valuations, makes the offers and prepares a short format appraisal if an appraisal waiver cannot be obtained. The same agent can continue to act as negotiator, though rapport may be better established using another agent.
- The sales study must be approved by a designated Review Appraiser, though approval can be delegated to a district reviewer who has met qualifications by completing sales study training.
- Sales Studies can be waived by a Reviewer for projects where all payments fall under the amount that has been established as the minimum payment in the district or for the project (minimum payments range from \$100 to \$500 depending on the district)
- Negotiation by mail is encouraged
- Recommendation: District should prepare at least one appraisal in each size and property type category prior to beginning valuations of appraisal waiver parcels to ensure that the value ranges are supportable

Waiver process

1. Review Appraiser and appropriate district rep scope project to:
 - Identify nominals based on complexity
 - Identify type of fencing if any
 - Take additional notes and calculations of any additional items so they are available if needed to convert to an appraisal
 - Take at least one photo of the parcel and close-up photos of fencing or other items that might be affected by the acquisition
2. Review Appraiser approves sales study
3. An allocated summary of all nominal parcel damage amounts is listed on the Nominal Payment Parcel Report. This report establishes offering prices that District Real Estate management must approve before offers are made
4. Agent completes the Nominal Payment Parcel-Waiver of Appraisal Form (the waiver valuation) allocating the offering prices that have been approved by District management
5. Agent presents the completed valuation to the owner along with the owner's rights brochure
 - Owner is informed of his right to have property appraised
 - If the owner accepts the valuation, the agent can sign the approval
 - If the value is changed as a result of negotiations (still within the \$5000 limit), the agent will make a pen and ink change on the form initiated by both owner and agent. Changes are subject to district real estate management approval.
6. If owner is unwilling to sign on first negotiation call, the documents are left with owner to further review.
7. If owner is unwilling or reluctant to sign on second negotiation call, the agent turns the visit into an appraisal call and asks the owner to accompany him on an inspection of the property
8. Agent returns to office and prepares a Short Format appraisal and then follows the normal appraisal review and acquisition processes

Identified issues in Wisconsin's Appraisal Waiver process

- Should WisDOT raise its waiver limit?
- Does Wisconsin require more support and documentation than other States for the appraisal waiver valuation?
- Does Wisconsin require more support and documentation for their short-format appraisals that are used for those parcels qualifying for the appraisal waiver process, but are appraised at the owner's request?

Consultant & In-house Staffing Issues

Background on Consultant Use

What and How Much Gets Consulted Out

From Fiscal Year (FY) 2000 through FY 2003, the average of consultant work has been between 24 percent and 30.5 percent of all real estate work. FY 2003 was the highest percentage year at 30.5 percent and \$2,359,213.00 of costs. The vast majority of the contracted work is appraisal work for parcels over \$5,000. Contracting of appraisal work is 80-100% across the districts. Districts tend to keep the "Waiver of Appraisal" process, a/k/a "Nominal Value Parcels", in-house. This tendency is causing a gap in experience of staff completing other noncomplex and complex appraisal assignments.

Other work consulted out in increasing rates is acquisition and relocation assistance.

Methodologies for Consulting

Appraisal

The consultant appraisal need is filled by utilizing a special contracting/purchasing process allowed by State Statutes. Private sector appraisers who desire to perform appraisal for Department projects must submit their qualifications and samples of work. They are then rated as qualified/unqualified. If qualified, they are slotted in levels of complexity. Projects are then rated as far as complexity and solicitations go out to the matched, qualified appraisers for interest in bidding on the advertised appraisal assignment. A bidders packet is then sent to the interested bidders. All of the above is handled by use of e-mail, a requirement to be included in this process. Low bid is the established norm for receiving the work, unless there are other extenuating circumstances, such as concern about competing contract work, prior performance evaluations, etc. Penalties of ½ of 1% of fee are charged daily for late delivery of each appraisal. A DOT team is currently revamping the contract formats. The biggest items being changed are: more restrictive minimum qualifications (certified general appraiser license), mandatory courses including eminent domain appraisal theory, and the submission of actual appraisal products reflecting past work pertaining to eminent domain.

Title

Private title companies provide all title search work for WisDOT. The Department's Purchasing Unit solicits all title companies on a bi-annual basis for quotes of their fees to do various types of searches and updates. These fees are set up to be parcel specific and tied to the right of way plats provided. The fees are frozen for the term of the solicitation. Companies state which counties they will perform work in and what the prices are for each county. Work orders are then submitted to the title company in each county whose fees are the low fees and who have done satisfactory work in the past.

Other Real Estate Services

The contracting for acquisition, relocation assistance, property management, and project data entry services is different from above. There are no pre-qualified lists of vendors for these services. Solicitation on a project basis or master contract basis is the norm and handled by each district separately. Firms are rated by employee resumes and experience and training. The most qualified firm then enters into negotiations with the District for the specific acquisition work, etc. needed. If negotiations prove unsuccessful with the most qualified vendor, then negotiations are begun with the second qualified vendor. There are no percentage penalties incorporated into these style contracts. If the consultant does not perform work according to the project schedule and contract completion dates, the State is able to terminate the contract for noncompliance.

However, the district offices have found only 10 firms for these types of services, with a total of 23 “agents” staffing those firms actually available in the entire state. Most of these individuals are geographically restricted, and will not provide services to other districts or statewide. Almost all of the “agents” are recycled among the 10 firms. Almost all are former WisDOT employees, and the firms continue to actively recruit WisDOT employees. Plus these firms are in active competition for contracts by the Locals Units of Government and Utility Companies, which further erodes their ability to fulfill WisDOT contract commitments.

Consultant Qualifications and Training Programs

Other than the appraisal contracting process, consultant qualifications are not regimented.

New real estate agents in the consultant sector are usually hired as junior real estate agents and work along side senior agents. At the same time, they are attending many Appraisal Institute, Wisconsin Real Estate broker/sales licensing classes, International Right of Way Association, and any real estate courses offered through technical colleges.

The contract selection process contains an analysis of the qualifications of the consultants who are identified as working on a particular project. The district offices review and make decisions on use of consultants by matching qualifications, experience, and training to the assignments being contracted.

Real Estate consultants are not required to attend any Department of Transportation led courses. If space allows, they are invited to attend some in-house new agent training courses.

Background on In-House Staffing

WisDOT is organized into a Central Office Bureau of Highway Real Estate Office and eight district real estate units. These district units are located within a Technical Services Section (also containing specialized engineering areas, utility coordination, environmental coordination, right of way plat preparation, and control of outdoor advertising).

Within each real estate unit, the number of real estate staff is dependent upon the real estate program size for that district. The range in size is from two to 16 real estate specialists, plus program support and supervision.

There are currently 58 filled positions statewide in the Real Estate Specialist classification series, including specialist, senior, and advanced.

Standards and Measurements for Agent Productivity and Performance

The Department utilizes a “Real Estate Program Performance Measurement System”. A copy of this system is being provided separately.

Four areas of the measurement system pertain to Agent productivity and performance. They are:

- **Performance Indicator #1—Property Cost Estimating.** Typically, senior or advanced level real estate specialists estimate the total cost of each real estate project just prior to the encumbrance of the needed dollars for contracts, in-house real estate delivery, and parcel costs. For property costs, a satisfactory review limit is defined as estimating within 15% over or under actual costs. A review of the project is done if the goal is not reached to identify causes contributing to the variance. A review of estimating methods is also done to help the specialist more accurately estimate future projects. Some of the districts include this performance measure as part of the annual performance evaluation goals for the appropriate real estate specialists.

- **Performance Indicator #2—On-Time Project Delivery.** Each project is assigned a real estate specialist project manager (or Ad Hoc Agent) whose role is to manage and/or perform activities ensuring timely delivery of the real estate project. Most of the time, that specialist also carries the majority of the workload being performed on the individual project. This indicator states that real estate needs must be at a No. 1 Certification by either the ad date (for advertising the construction proposal) or the let date (open of the bids for the construction proposal). The review limit (goal) is 100% of projects on time. Again, some of the districts include this performance measure as part of the annual performance evaluation goals for the appropriate real estate specialists.
- **Performance Indicator #3—Project Delivery (Labor) Cost.** Typically, senior or advanced level real estate specialists estimate the delivery costs of each real estate project along with the property cost estimating above. Each parcel receives a complexity level for delivery. A workday matrix identifies labor durations for in-house services for each type of function and various levels of complexity. See “Parcel Type Definitions” and “Real Estate Staffing Matrix” attached as separate documents to this report.
- **Performance Indicator #7—Quality Customer Service.** The purpose of this indicator is to evaluate customer satisfaction based on the knowledge, helpfulness and responsiveness of our real estate specialists and appraisers—our front line contacts with property owners. Customized surveys are sent out for nominal value parcels (appraisal waivers), appraised parcels, and relocation assistance services. Average customer survey scores at or above 66.7% will be considered “acceptable” and not subject to review. Again, some of the districts include this performance measure as part of the annual performance evaluation goals for the appropriate real estate specialists. See “Acquisition,” “Acquisition by Appraisal,” and Relocation” Surveys attached as separate documents to this report.

Education and Training of In-house Staff

Real Estate specialists, who are new to State civil service are trained in the following:

- Department of Transportation organizational structures and services.
- Civil service employee rules and responsibilities.
- New real estate agent training including:
 - Planning and project development
 - A summary of real estate related statutes and regulations
 - Uniform Act overview
 - R/W engineering using plats and plans
 - Sales studies for appraisal waiver parcels
 - Appraisal formats and parcel complexities
 - Compensable vs. Non-compensable
 - Basic negotiation and condemnation
 - Basic relocation
 - Property management
- IR/WA communication, negotiation, relocation assistance, and other courses as available in Wisconsin. (Out of state travel for training is generally not permitted.)
- Appraisal Institute/technical college appraisal courses pertinent to project appraisal problems.
- Specialized User Groups have been established in appraisal, acquisition, relocation assistance, property management, litigation coordination, and local public agency monitoring. The mission of each user group is to keep abreast of current policies and procedures, help train junior specialists in specialized areas, and recommend changes to procedures as needed.

Applicants for real estate specialist positions provide information on skills, knowledge, education, and prior experience in their application for civil service employment. Job experts rate the applications on a periodic basis as qualified/not qualified. Benchmarks are established to help the job experts.

No licenses or certifications are required to be hired.

Pay coming into State civil service is broad banded. Broad banding allows for flexibility in establishing starting salary upon hire. for entry-level specialists, giving consideration for advanced training, knowledge, skills, and prior experience.

It takes 3-5 years to grow a real estate specialist to "senior" level. The Advanced level is achieved by promotion only and requires consistent responsibilities of a complex nature and coordination of one or more of 4 major real estate functions (Acquisition, Relocation, Property Management, Litigation) or as an Advanced appraiser or Central Office reviewer

Attracting Qualified Appraisers and Negotiators

The core of appraisal expertise in the Department resides with the review appraisers. Due to their workload, they are not available to perform appraisal work of any quantity. Most of the other specialists hired concentrate their efforts on specialized functional areas other than appraisal.

The Department's recent experience in trying to hire experienced appraisers into civil service is that they leave within a short period of time. Identified reasons are low pay and not being assigned to 100% appraisal duties. Other independent appraisers have been hired directly to the Real Estate Supervisor position and are presently staying within civil service.

There is no training ground outside of Government and the International Right of Way Association for the negotiations skill set.

Retaining Technical Expertise and Balancing with Consulting

There are currently 58 filled positions statewide in the Real Estate specialist classification series, including specialist, senior and advanced. That is the lowest staffing level in this class in 12 years. In these 58 positions, 52% (30 positions) of the incumbents are retirement eligible (over 55 years) within the next two years. 40% (23 positions) are eligible in 2004 alone. See chart below for further data. A poll of the Districts indicates that at least 10 of these people will actually retire and vacate a position in the next 12-18 months. This doesn't account for normal attrition otherwise. Several vacancies created by transfers or leaving WisDOT exist already. Governor James Doyle has placed a hiring freeze on all State positions for all State agencies. Currently vacancies, which can be justified to fill, are done so by internal transfer. Qualifications of present non-real estate civil service employees, who desire to transfer into a real estate specialist position, do not necessarily meet the minimum qualifications we have established to hire applicants from the private sector. Training would have to be extensive and expensive.

Classification	Total	55+ over in 2004	55 in 2005	55 in 2006	Total eligible
RE Specialist	12	4	0	1	5
RE Specialist Senior	33	16	1	2	19
RE Specialist Adv.	13	3	2	1	6
	58	23	3	4	30
		40%	5%	7%	52%
RE Mgmt with RE expertise	9	3	0	1	4

Contracted labor currently is used as an extension of DOT staff in the Real Estate functions for purposes of work involving appraisals, title, acquisition and relocation activities. Division resource modeling analysis continues to indicate a resource gap for real estate functions. In Wisconsin, as

in other mid-western states, there is a shallow pool of “consultants” available for this specialized work. All Districts contract independently to meet their program needs. Frequently the Districts find themselves in direct competition with each other for the same external resources. Also, more often than not, the Districts experience over-commitment by this resource pool, not only in promising to deliver their work within unrealistic timelines in order to get contracts from WisDOT, but in their labor-personnel availability. Many of these firms will identify the same individuals as staff that may operate as subcontractors to them.

Identified Issues

- There is a lack of in-house staff available to provide all real estate services.
- There is a lack of in-house expertise to provide appraisal services.
- There is no centralized real estate contracting unit. Districts are competing against each other for service providers.
- The pool of consultants is very limited.
- Consultant pre-qualifications are not well established in all functional areas.
- The low-bidder process is used for some real estate services. Other services are negotiated.
- There is no central real estate training coordinator who would organize and schedule specialized real estate training classes with qualified instructors.
- Wisconsin Governor James Doyle has enacted a statewide hiring freeze.

Local Public Agency Coordination and Staffing in WisDOT

Staffing

- One LPA coordinator is assigned in each of the eight districts with oversight responsibility comprising a percentage of their time
- Amount of time devoted to coordination varies among the eight districts. Our three larger districts (Madison, Milwaukee and Green Bay) incorporate the aid of consultants to assist in oversight. Average time spent in coordination is shown in the table below.
- Our Central Office position is assigned responsibility for statewide oversight and provision of functional guidance to district LPA coordinators. About 50% of his time is devoted to this functional responsibility.

District		3-yr avg	÷ 1313.84 conversion	Staff Equiv.	+ Consult. Effort	+ Support Staff	Total Staff Input
1		152		.12	0.40	.01	.53
2		697		.53	1.20	.22	1.95
3		448		.34	--	0	.34
4		686		.52	--	.02	.54
5		562		.43	--	.03	.46
6		122		.09	--	.01	.10
7		177		.13	--	.01	.14
8		315		.24	--	0	.24
Total							4.30

Coordinator Activities

- Coordinator is to be notified of projects potentially requiring purchase of real estate early in project development process.
- May attend public informational meetings on larger or more complex projects.
- Oversee and assist in consultant contractor selection. Ensure that consultant process follows state and federal requirements.
- Review and approve or route Acquisition Capabilities Statements
- Meet with locals at outset of project to provide guidance on process and establish expectations.
- Receives and reviews real estate cost estimate on projects with state or federal funding.
- Prepares a Project Cost Estimate, which includes costs for r/w and delivery, for internal processing.
- Ensure that relocation orders (formal notices of commencement of r/w acquisition) are properly filed.
- Participate in field reviews on larger projects
- Coordinators do not actively perform the utility relocation process, but they must ensure that acquisition of utility rights are addressed.
- On projects with state or federal money in right-of-way, sales studies and appraisals are submitted to our central office reviewer for approval.
- The Coordinator is the approving authority for offering prices on appraisal waiver parcels (<\$5,000). The coordinator has discretion to allow the LPA to approve appraisal waiver parcels on projects without state or federal money in right-of-way.
- Meet periodically with LPA during acquisition process. Provide guidance on settlement strategies.
- Review relocation computations and claims or refer to district relocation expert.
- After acquisition is complete, the LPA must provide a Certificate of Right-of-Way documenting that right-of-way was properly acquired.

- Coordinator must review all acquisition documents for correctness and adherence to policy.
- Coordinator certifies status of right-of-way acquisition for construction.
- On projects with state or federal aid in right-of-way, the coordinator will provide the LPA with a checklist of documentation that the LPA must provide in order to receive reimbursement for costs.

Training of LPAs

- Each of the eight districts is responsible for providing periodic training to representatives of their local public agencies.
- Training is undertaken in different manners in different districts. The larger districts present training to a broad audience of LPAs and their consultants on an annual or semi-annual basis and cover requirements of the entire acquisition process.
- One district holds sessions twice a year with a smaller audience made up primarily of county highway commissioners, consultants and municipalities with planned projects. Presentations vary and are confined to certain aspects of the acquisition process.
- The smaller districts provide one-on-one, just-in-time training to local agencies as needed when projects are scheduled.
- In addition, coordinators are members of a “user group” where they meet twice a year among themselves to address LPA coordination concerns and issues and share best practices.

Identified Issues in Wisconsin’s LPA Coordination Process

- Is there sufficient staff available to provide an adequate level of oversight, guidance and training to ensure that LPA’s are in conformance with policy and law?
- Late notification to coordinator of projects requiring r/w.

Property Management

Surplus Land Sales

REMNANT IDENTIFICATION/INVENTORY

Remnant parcels are identified, inventoried, and updated for status using our statewide Real Estate Automated Data System “**READS**”. At the time of acquisition, or when otherwise identified, a Property Inventory Report is prepared detailing the size and acquisition value of the remnant. This information, along with other pertinent parcel data, is entered into our “**READS**” database for future tracking, updating, and reporting purposes.

DEPARTMENTAL APPROVAL FOR MARKETING

Prior to the marketing/sale of remnant parcels, approvals must be secured from the District Technical Services, Project Development, Planning, Maintenance, Environmental, and Archaeological units. After these approvals are secured, the sale process may proceed. If federal funds were used to acquire the surplus parcel, approval to dispose of the parcel or remnant must be obtained from FHWA.

VALUATION OF SURPLUS LANDS

Surplus lands are marketed at fair market value. This value will typically be determined through an appraisal. Depending on its complexity, a short format appraisal or market data report may suffice. An appraisal will be the basis of any sale or the recommended minimum acceptable bid for which the land would be sold at public bid.

Wisconsin Department of Transportation (WisDOT) requires a minimum sale price of \$500 to at least cover the administrative cost of selling the parcel.

Appraisal Review

For parcels acquired with Federal Funding:

Parcels with an appraised value of \$1,000 or more must be reviewed by a Central Office Review Appraiser.

For parcels acquired without Federal Funding:

Parcels with an appraised value of \$10,000 or more must be reviewed by a Central Office Review Appraiser for approval prior to proceeding with the sale process.

Parcels with an appraised value of less than \$10,000 may be reviewed by a District review appraiser.

METHODS OF DISPOSAL

Depending upon the characteristics of the surplus parcels, WisDOT typically uses one of the following methods of disposal. WisDOT has full discretion in evaluating a given parcel and choosing a marketing method.

- **Public Sale (Sealed Bids)**

A public sale is similar to an auction except a sealed bid process is used. The surplus land is conveyed to the highest bidder returning a sealed bid that meets terms and conditions as set forth by the State.

- **Public Sale (Auction)**

The surplus land is conveyed to the highest bidder meeting the advertised terms and conditions of sale as set forth by the State. This method is used less frequently than the Sealed Bid process.

**Note: Terms and conditions of both public sales and auctions are stated in the bulletins relating to the parcel of land being sold.*

- **Private Sales**

There are occasions when WisDOT determines that marketing to the general public is inappropriate due to parcel characteristics or other circumstances and will market to a limited group, most often to an abutting landowner and sometimes to a local unit of government, if for a public use.

- **Broker Sales**

Certain parcels are turned over to brokers for the marketing/sale process. These are typically highly valued commercial sites for which brokers may be better qualified to maximize public exposure and revenues.

- **Internet Site**

WisDOT also maintains an Internet site of all properties currently available for public sale.

CONVEYANCE

The Department of Transportation conveys its surplus lands by Quit Claim Deed. The Governor must approve the sale (if valued at \$15,000 or greater) and the approval date is noted on the Quit Claim Deed. Sales of properties with a value of \$3,000 to \$15,000 require Secretary of Transportation approval, and properties valued under \$3,000 may be approved for sale within the district.

Research and Processing

Prior to the mid 1960's, WisDOT had the counties acquire all lands needed for state and federal highways in the name of the county. These lands are being held in trust for WisDOT until such time as WisDOT requests transfer of title to WisDOT for the purpose of property conveyance.

Therefore, prior to any sale of highway lands, the original project, parcel, and type of ownership must be determined. If the property was acquired in the name of the county, conveyance of said lands must be obtained from the county via Order to Convey and Quit Claim Deed documents granting clear title to WisDOT.

The timeframe required for the approval, research, and sale process for any given property may be between two and six months.

Sales Preparation and Buyer's Responsibilities

The Department of Transportation requires that the entire purchase price be tendered before the deed to surplus property is recorded. It will be the buyer's responsibility to secure and/or pay for title insurance and a certified survey map of the surplus parcel, if required, and to perform due diligence typical for a purchaser of property.

Land is sold on an "as is" basis. Failure of a prospective buyer to be fully informed as to the condition and potential use of the surplus property being offered for sale will not constitute grounds for adjustment or withdrawal of a bid or offer to purchase.

The buyer also assumes the responsibility for the payment of any legal special assessments for public improvements such as sewer, water, sidewalks, etc., that may be levied against the property. It is recommended that a prospective purchaser check with the local municipality to secure up-to-date information regarding the parcel. The Department of Transportation will record the deed as soon as possible after closing. Buyer must secure firsthand information concerning the local real estate tax rate, utility service, zoning ordinances and building codes.

Deed Restrictions

Conveyance of surplus lands is often subject to certain restrictions included in the Quit Claim Deed. These restrictions may be included to ensure enforcement of statutes and regulations to protect the integrity of the adjacent highway, protect the health and safety of the public using the highway, preserve the visual appeal or natural beauty of the site, and protect the rights of existing utilities.

Examples of restrictions:

No vehicular ingress or egress allowed between the surplus parcel and the adjacent highway.

All public and private utilities located upon, over or under the surplus parcel shall have the continued right of occupancy and the continued right of ingress and egress for personnel and equipment for the purpose of maintaining or improving their facilities.

Application of a setback that extends 110 feet from the centerline of the highway or 50 feet from the nearer right-of-way line, whichever is furthest from the centerline.

No improvements or structures are allowed between the right-of-way line and the highway setback line. Improvements and structures include, but are not limited to, signs, parking areas, driveways, wells, septic systems, drainage facilities, buildings and retaining walls.

WisDOT may offer other State agencies or government units within the State the first right of acquisition of excess lands if the proposed use is for public purposes. In these cases, the land is sold without competitive bidding. However, WisDOT requires that a Reversionary Clause be added to the deed restrictions.

Reversionary Clauses

WisDOT uses two “**Reversionary Clauses**”.

1: “Reversionary Clause” which applies to property **Sold** at fair market value to a public agency.

It is expressly intended and agreed by and between the parties hereto that these lands are conveyed to (Grantee) specifically for the public use and purpose of (Enter the Intended Use of property). If at any time, (Grantee) determines this land or any part thereof is no longer being used for public purposes, (Grantee) shall notify the WisDOT in writing and shall, at no cost to WisDOT, convey said property back to WisDOT. This restriction expires 25 years from (Enter effective date), after which time the (Grantee) is granted full ownership of the property.

2: “Reversionary Clause” which applies to property **Given** to a public agency for a transportation use. **(No expiration date)**

It is expressly intended and agreed by and between the parties hereto that these lands are conveyed to (Grantee) specifically for the public use and purpose of (Enter the Intended Use of property). If at any time, (Grantee) determines this land or any part thereof is no longer being used for public purposes, (Grantee) shall notify the WisDOT in writing and shall, at no cost to WisDOT, convey said property back to WisDOT.

PARCEL CLOSING PROCESS

Upon completion of the sale process, WisDOT submits the executed Quit Claim Deed to the County Register of Deeds Office to ensure recording. The recorded deed is returned to WisDOT, a copy is retained for WisDOT’s file and the original is forwarded to the buyer.

Copies of the transaction are distributed to District Maintenance, Planning (for access purposes), and the Right of /Way Plat Unit (for the required plat updating).

Finally, our automated tracking system, "READS", is updated to reflect the sale data.

Encroachments/Rentals

District Project Development and Maintenance Departments identify encroachments (private improvements occupying highway right-of-way) and determine whether they may remain by entering into a Lease Agreement, through issuance of a revocable occupancy permit or if a sale of right-of-way is possible. If none of these options are feasible, then removal of the encroachment is required. Leases and Land Sales are referred to Real Estate for follow-up and processing. Maintenance executes removal procedures. Examples of types of leases include agricultural, commercial, airspace, and "Occupancy Agreements" (used for non-profit activities such as grass cutting, gardening, etc.)

WisDOT also leases acquired buildings. Relocation policy dictates that property owners be offered a 30-day free rental period beginning with the date of acquisition. Occupancy may be extended at WisDOT's discretion if requested by the property owner, provided site clearance is not immediately required for the highway improvement project. Typically, rent for the extended occupancy is calculated at one-half of one percent of the acquisition price and remitted on a monthly basis.

Site Clearance

It is important that provisions are in place for removal of all site improvements prior to the construction letting. This is accomplished through the following methods:

- Publicly Bid Demolition Contract
- County Day Labor Contract
- Construction Contract Specifications
**Note: Appropriate timeframe is required to avoid possible safety issues if structures remain for an extended period of time.*
- Public Sealed Bid Process
**Note: It is Departmental policy, when feasible, to consider the sale of houses or other improvements acquired for highway improvements projects. The buildings may be moved off the site by a professional mover or salvaged. These operations require a Public Sealed Bid process and appropriate insurance and indemnification documentation as well as a performance bond.*

Identified Issues in Wisconsin's Property Management Process

- Lack of staff and staff time available to provide the level of oversight required to ensure that all the surplus lands are being marketed timely and efficiently and that they are in conformance with policy and law.
- The requirement by law that any sale over \$15,000 is required to have Governor's approval. This step can slow the process considerably.
- Does your State dedicate or deed at no cost to a sole, abutting owner certain small, low value, non-buildable strips of land that are of no use to anyone else and are unsaleable. If so, do you have a maximum value limit? What if they won't accept the dedication?
- How do you handle surplus parcels that DOT owns in easement only (where fee title still lies with the original owner)?

Acquisition/Condemnation Processes

Authority to acquire lands

A "Relocation Order" providing for the laying out, relocation and improvement of a public highway must be approved before WisDOT can approve any offering prices or acquire any interests in land.

- This order is now found on the face of the R/W Plat sheet.
- No Relocation Order is necessary on projects where compensation as estimated by appraisal will be less than \$1000 in the aggregate. (Projects under \$1000 also do not require a standard r/w plat. Interests can be identified on the construction plan)

¼ Mile Rule

WisDOT may not acquire:

- Land or any interest in land that is not acquired in association with a highway project
- Land or interest in land located more than ¼ mile from highway. (Meaning at least a portion of the land to be acquired must be located within ¼ mi. of the highway or proposed highway.)

WisDOT Early Acquisition Process and FHWA Advanced Acquisition Process

Advanced (Hardships/Protective purchases)

- Same criteria as found in federal regulations
- Must be approved by central office

Early acquisitions (can also be used for hardship and protective reasons)

- State process based on ISTEPA requirements
- Can be approved by district management if funding is secured.
- Require less stringent criteria than Advanced Hardships/Protective Purchases
- Cannot be used on projects with federal funding in r/w

**See Attachment for comparison chart of these two processes*

Early or Advanced acquisitions can be acquired by use of Eminent Domain when property owner and Department cannot agree on purchase price.

No person can be coerced into agreeing to and signing the agency's offer by having the acquiring agency threaten to stop the acquisition process if property owner is not in agreement.

R/W Plat Process

Typically r/w plats must meet the certain standards laid out by the Department's Surveying and Mapping Bureau.

Exception: For early and advanced acquisitions, when an entire property is being acquired (total take), the district may opt to use a simple sketch or map in lieu of the more traditional r/w plat.

The map must contain:

- The Project ID number
- Owners name
- Type of interest required (fee, easement, etc.)
- Total acreage or area of subject
- Subject's property lines
- Township, village, city or county name
- Section, Town and Range
- Certified Survey Map or outlot number, if available
- North arrow
- Scale

A county plat book map, certified survey map, tax map or subdivision plat may be used as the base vehicle when appropriate. In such cases, the district need only add those items such as the project ID and type of interest that are not already indicated on the map being used.

Donations

- Owners must still be given a copy of “The Rights of Landowners Under Wisconsin Eminent Domain Law” and be fully advised of their rights to just compensation based on an appraisal
- An appraisal does not have to be made prior to an acceptance of a donation although for properties of significant value, an appraisal is recommended
- District management has the authority to accept donations. If a land trade is involved, Central Office Real Estate must review and approve
- Districts are advised to be alert for contaminated properties
- When dealing with a property of significant value where an appeal is suspect, it is recommended that a clause be put in a Purchase Agreement stating that if the owner donating the property files an appeal, that both parties agree that the value of the property for purposes of an appeal shall be \$xxxx (an amount determined to be the fair market value based on an appraisal)

Temporary Limited Easements (TLE)

- A temporary limited easement (TLE) is considered a land interest and the owner is entitled to all rights under Wisconsin Eminent Domain
- A TLE must be used when the construction requires a temporary use of the land
- TLE's must be shown on the R/W Plat and must be cleared as part of the project's r/w certification
- The document should include a specific date (to be determined by the District RE Management) as to when the easement will expire. The date should not exceed 5 yrs.
- TLE's can be acquired using the Appraisal Waiver process
- TLE's only need to be recorded if the district anticipates a land transfer or if the project will not be constructed in the near future

Construction Permits (CP)

- Another means of securing the right to temporarily use a portion of a property for construction purposes.
- CPs are not considered a land interest and the owner is not entitled to rights under eminent domain such as his own appraisal and appeal rights
- CPs can only be used for temporary needs that are not required for construction. Can only be obtained with the cooperation of the owner. DOT can construct the project without the temporary use of this property
- DOT cannot condemn on a CP
- CPs are often for the benefit of an owner (example: he wants a flatter driveway than was planned and considered acceptable by DOT standards or a better blending of lawn to new curb and gutter)
- Typically CPs are used during construction when the temporary need was not anticipated during negotiations. These are signed by the Project Engineer
- CPs could be used by Real Estate during the negotiation stage if it meets the above criteria.
- CPs are shown only on the construction plan if identified during negotiations.
- CPs are not identified on the R/W Certification and are not recorded

Preparation of Appraisals:

- Wis. Statutes require WisDOT to provide the owner with a full narrative appraisal and a copy of any other appraisal made. (See Appraisal Waiver Process for exception to this policy)
- WisDOT's current appraisal formats seem to meet the "full narrative" intent (that term is not defined in our statutes). The formats provide the owner with a very complete description of the appraisal process used to reach a documented conclusion of the property's market value, contain the appraiser's rationale for determining that value and provide supporting market data.
- Appraisals can be contracted for and completed before the Relocation Order is approved but the Appraisal Review cannot approve an Offering Price until that Order is approved.

Economic and Uneconomic Remnants

If owner is left with an uneconomic remnant, the Department must make a written offer to acquire the remnant (an Alternate Offer in addition to the Offering Price for the land needed for construction)

Not contrary to ¼ mile rule defined above. Department may purchase lands or interests in lands that are located on a single parcel that is completely or partially within ¼ mile of a highway or proposed highway.

Even if Department acquires needed r/w by condemnation, the owner has the right to ask that the uneconomic remnant be purchased. (Request must be in writing)

If parcel is contaminated, Department can require owner to remediate site before acquisition.

The Department will "consider" a request to purchase an economic remnant if it is in the best interests of the state.

Offering Prices

- Designated District Reviewers may approve non-complex appraisals of \$5000 or less and reports of \$10,000 or less with no damages to the improvements and with land severance of \$2000 or less
- Central Office Review Appraisers must approve all others

Providing Owner a copy of the State appraisal

Wisconsin law requires that WisDOT present the offering price and a copy of the state's appraisal to the owner(s) at the first negotiation call. The WisDOT Real Estate agent will walk through the report with the owner and explain the appraisers rationale and conclusion of value.

Owners right to obtain own independent appraisal/60 day time-period

Wisconsin law allows the owner to obtain his own appraisal by an appraiser of his choice. In order to be reimbursed for that appraisal, the report must follow specific appraisal guidelines provided to the owners, must be received by DOT no later than 60 days after the initial offer and State's appraisal was presented to the property owner and the cost must be reasonable.

Appraiser/Negotiator Roles

- An appraiser cannot act as the negotiator on a parcel that s/he has appraised unless the approved offering price is \$5000 or less. (Note: the same person that appraised the parcel cannot review the report.)
- For acquisitions that meet the \$5000 Appraisal Waiver criteria, the agent may turn the negotiation call into an appraisal inspection if an owner requests an appraisal.

Negotiator/Relocation Agent Roles

- Negotiator may serve as relocation agent for a parcel if appropriate. Most districts limit the use of a single agent to residential relocations. Commercial and farm relocation can become problematic.

Preparing for Negotiation

District parcel acquisition file:

Official files are kept in District office. Parcel file should include at a minimum:

- Parcel Checklist or report from Real Estate Automated Data System (READS) indicating key dates and parcel status
- Title search information
- Legal Description
- All appraisal reports
- Indication that pamphlet entitled "The Rights of the Landowners Under Wis. Eminent Domain Law" has been mailed or given to the owner before offer is presented.
- Offering Price letter including:
 - An identification of acquired property interest
 - Allocation of approved offering price
 - A statement of tax proration
 - List of tenant-owner improvements/fixtures (leasehold interests are not appraised as a separate entity. It's appraised with respect to its market value as a whole. The value of the tenant owner property will be allocated)
 - List of types/quantities of personal property located on remaining property
 - Statement saying that just compensation is based on market value and disregards any decrease or increase in the market value caused by the project.
- Appropriate conveyances
- Purchase Agreement, if applicable
- Negotiation Diary
- Other relocation notices
- Closing Statement
- Evidence that owner has paid for the purchase price and expenses incidental to transfer of property (payment request, check, certified mail receipts, etc.)
- Statement to Construction Engineer (A document of any commitments made during the course of negotiations. This form is then given to the Project Engineer)

Contact/Negotiation by Mail

- Make an initial contact with owner by telephone. Follow phone discussion with a confirmation letter detailing all phases of the transaction including sketches, area to be acquired, etc. Recommended that offer be made by certified mail.

Changes to the Original Offering Price

Two ways to accomplish this:

- Creating a new offering price
 - This is required when the acquisition size changes or the change adversely affects the remainder)
 - The requirement to reinstate the 60-day time period for an owner to secure an independent appraisal is typically not required if the change is insignificant, the change was made at the request of the owner or the change is a decrease in acreage.

- Through Administrative Revision (Wisconsin's term for Administrative Settlement)
 - When there has been no change in the area of acquisition or the impact the acquisition will have on the remaining property
 - Reasons for increase via AR could be market based or non-market base rationale such as:
 - Cost of project delays
 - Issues difficult to value such as access, proximity, change of grade
 - Time lapse between initial appraisal and condemnation
 - Big divergence in state appraisal and owner appraisal
 - Risk of appeal
 - Increases processed using the Administrative Revision form and all AR's of any dollar amount can be approved by the District Technical Services Manager or Real Estate Supervisor

Closings

- WisDOT Real Estate Agents do all closings
- A Closing Statement must be prepared for any acquisitions requiring deductions, additions or installments and should be signed by the owner
- Proration of taxes is not required for nominal (appraisal waiver) parcels of \$5000 or less
- Payment requests are created from our Real Estate Automated Data System (READS) and are sent to Central Office-Real Estate who has it's own financial specialists delegated the authority to audit and process payments. Checks are prepared/cut by the State Treasurer Office
- Checks can be delivered in person or by mail depending on the circumstances
- Once full payment is made, the conveyance documents are recorded in the Office of the Register of Deeds in the county where the parcel is located.
- District management has the discretion of not obtaining partial releases:
 - When the acquisition is \$10,000 or less and the risk is minimal
 - In these low risk situations, the lender must still be named on the conveyance but they do not have to be named on the check
 - For acquisitions over \$10,000 where there is considerable difficulty and cost associated with obtaining the partial release, the parcel should be acquired by condemnation. Condemnations do not require partial releases.

Condemnation

- If an agreement cannot be reached, the District will send to the owner and all parties of interest, a Jurisdictional Offer to Purchase notice which states the Department's final offer.
 - Before issuing the Jurisdictional Offer, consideration may be given to administratively revising the offer (of parcels that have the potential to be appealed) to give the Department more protection in court
 - Right to Take Action: An owner may contest the taking by commencing an action in Circuit Court within 40 days from the day of service or date of publication of the Jurisdictional Offer. This action does not prevent the condemnor from proceeding with condemnation.
- Typically the Department must wait 60 days before issuing a Jurisdictional Offer. (Could issue as early as the 40th day if owner states that they have reached the end of negotiation, have either already secured their own appraisal or have chosen not to and wants the district to condemn the parcel
- The owner(s) has 20 days to either accept, reject or ignore the Jurisdictional Offer.
- At the end of the 20 days or upon rejection, the Department then serves the Award of Damage (the legal document that takes title to the property).

Temporary “Right of Entry” Easement

- Used when Department is not able to secure a needed highway interest in time to meet the project's Ad meeting (the date the project is advertised for letting)
- Although Rights of Entry are not intended to be normal practice, WisDOT has been using them rather frequently the past few years in order to meet our lettings. This has become necessary due to expanding programs, decreasing staff resources and unreasonable acquisition timeframes.
- We have just been advised by FHWA that they are “pulling back the reins” and that they will no longer accept the use of Rights of Entry to clear a project except in extreme, infrequent cases. This will affect not only State projects but Local projects as well.
- On very rare occasion and upon approval of FHWA and Central Office real estate, a Right of Entry may be used “prior” to the commencement of negotiations, as in the case of utilities. Because of Wisconsin winters, it is sometimes necessary.

R/W Certification

- Prior to authorization to advertise for physical construction of any Federal, State or Local Public Agency project, a PS&E (Plan, Specifications and Estimate) must be approved and the District must submit a Certificate of R/W that ensures:
 - All permanent and temporary interests have been acquired and r/w is clear
 - All individuals and families have been relocated to DSS housing
- We have 3 acceptable levels of Certification
 - Cert 1 project - All rights/interests as shown on r/w plat or construction plan have been obtained including legal and physical possession. Bids can be opened and the project can be awarded to the winning contractor. In this case, the project has “met it's letting”.
 - Cert 2 project – All lands and improvements have been vacated, and almost all rights have been fully acquired with the exception of a “few” parcels that only have a Right of Entry and follow up is required. Under a Cert 2, bids can be opened and the project can be awarded. Acquisition, however, must eventually be completed for these few parcels and a Cert 1 achieved.
 - Cert 3 project: All lands and improvements have been vacated and most rights have been fully acquired or have a Right of Entry. There may be a few remaining parcels where the Jurisdictional Offer (the start of condemnation) has been issued to the owner but the Department must wait out it's 20 day period before taking possession by Award of Damage (condemnation). Or, there may be one or two parcels that are not critical to the initiation of construction and will not be acquired until some time after the letting. These would be put in the Special Provisions to notify the contractor that he must avoid these parcels until acquisition is complete. Under a Cert. 3 project, the bids cannot be opened until acquisition has been completed on those parcels pending condemnation or unless they are noted in the Special Provisions.

Appeal Rights

- Owners that have reached an agreement and signed a Deed still have 6 months from the date of recording to appeal for higher compensation to the Condemnation Commission or a court of law
- Owners that have been condemned have 2 years from the date of recording of the Award of Damage to appeal for higher compensation
- If the commission or a court reaches a decision on an amount greater than 15% above the Department's highest written offer (typically the amount of the Jurisdictional Offer that was sent at the close of negotiations), then the State must pay all of the owners litigation and attorney expenses. **Referred to as Wisconsin's 15% Rule.**

Issues Identified in Wisconsin

- Late plat design or incomplete plats at time appraisals are prepared and acquisition is initiated. Results in numerous plat changes and rework.
- Inadequate inclusion and involvement of real estate staff in the design process. As a consequence, minor adjustments to the highway design that could be undertaken to avoid major real estate impacts are either not discovered at all, or do not get discovered until we are well into the acquisition process, resulting in delays and rework.
- Wisconsin's current law requires that property owners must provide to the owner the appraisal upon which the jurisdictional offer is based and a copy of any other appraisal made. This has been interpreted to mean that we have to provide them copies of reports that had not been approved by our reviewers.
- Owner Attorneys have been recommending to their clients that they accept the Department's first offer, sign a deed and then appeal from the deed. That results in the DOT not knowing whether the owner is in disagreement, it doesn't give the DOT the opportunity to see the owner's opposing appraisal and doesn't allow DOT to consider an administrative settlement to give it some added protection in court against the 15% rule.
- DOT has been forced to use increasing numbers of rights of entry in order to meet the construction letting because of tight acquisition timeframes.
- WisDOT's first Design/Build pilot raised many concerns regarding r/w acquisition. It resulted in an unacceptable number of parcels requiring rights of entry and virtually all parcel values being increased through the use of administrative settlements.
- Up to this point, WisDOT has resisted the idea of incentive payments.
- Utility issue: Because of Wisconsin's winter, Utilities often need to start their relocations in late fall in order to have their work completed for a spring letting. Sometimes, because of late plat delivery, real estate doesn't have the necessary r/w acquired for them to start their work. Without securing a Right of Entry "prior" to an appraisal being completed or a near-final plat, WisDOT has "no tools in their toolbox" to deal with this dilemma
- Do any States have the ability to allow agents to make immediate payments to property owners through the use of a District "checkbook" or some other similar process?

Appendix C

Peer Exchange Planning: Survey Results

2004 BHRE Peer Exchange State Survey Results

The following survey was sent out to the Research Advisory Council listserv in May 2004. Responses are included in the table that follows.

WisDOT is organizing a peer exchange for its real estate programs. Would you please ask the appropriate person in your agency to respond to the brief questions below and send the responses to: kimberly.linsenmayer@dot.state.wi.us

1. Has your department made significant changes to any of your real estate program procedures in the last 5 years?
If so, which program areas were affected?

2. Do you feel your department employs "best practices" in the following real estate program areas (yes, partially, no):

Valuation Methodologies (appraisals, nominal valuation, etc.)

Use of Consultants (qualifications, quantity, training)

Use of In-House Staff (training, productivity, retention)

Property Management (surplus land sales, air space leases, etc.)

Litigation (pre-trial settlement strategies, mediation processes)

Local Public Agency (LPA) programs (administration, grant programs)?

3. Are you interested in improving your procedures in the following program areas (definitely, maybe, no)?

Valuation Methodologies (appraisals, nominal valuation, etc.)

Use of Consultants (qualifications, quantity, training)

Use of In-House Staff (training, productivity, retention)

Property Management (surplus land sales, air space leases, etc.)

Litigation (pre-trial settlement strategies, mediation processes)

Local Public Agency (LPA) programs (administration, grant programs)?

4. Have you ever hosted a peer exchange for your highway real estate program?

5. Additional Comments

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
<p>New Jersey</p> <p>Nicholas J. Monahan, Jr. Director, Division of Right-of-Way (609) 530-2360 (609) 530-2624 (fax) Nick.Monahan@dot.state.nj.us</p>	<p>The most significant changes within the ROW program were made approximately 7 years ago when NJDOT went to a project management environment. At the time we adopted a team concept in each district office, with "generalist as opposed to specialist" agents. Oversight by Headquarters staff was dramatically reduced, as were the number of signoffs to complete tasks.</p> <p>Administrative settlement authority was granted to field staff based upon their job level. Since that time we have been adapting to that system and incorporating minor process & organizational changes as the need becomes apparent.</p>	<p>Valuation methodologies - Yes. In addition to a \$10,000 appraisal waiver (seeking an increase to \$25,000), we utilize fee reviewers, as well as abbreviated report formats wherever possible.</p> <p>Consultants - have always utilized fee appraisers (now approaching 98% of our appraisal volume), using title companies to a limited extent. Now in the process of adopting a policy of using full-service ROW consultant firms on targeted projects. In-house staff - Our ROW Division has been hit significantly over the past five years by retirements and normal attrition. Although we have requested authority to conduct a comprehensive staffing effort, budgeting conditions have limited our ability in this regard. Training of staff in the areas of acquisition, appraisal & relocation is accomplished via a number of IRWA and Appraisal Institute type courses given each year, along with internal workshops.</p> <p>Property Management - No. Although we are looking at securing a GIS capability for tracking real estate inventory. This system will most likely be blended with a document management/database system to be designed and implemented this next fiscal year.</p> <p>Litigation - Limited use of mediation on high-risk cases. Since New Jersey is a "bona fide" negotiations State, with full disclosure of appraisals to property owners, we exercise a very close working relationship with our Attorney General's office all during the acquisition process. The actual volume of cases proceeding to trial is low (less than 5%). Administrative and legal settlements are used whenever justified by the circumstances.</p> <p>Local Public Agency - Nothing of a "best practice" nature in this regard.</p>	<p>We are always interested in taking advantage of opportunities to improve our overall program.</p>	<p>No, we have not hosted a peer exchange. Subject to NJDOT senior management approval, we would be willing to participate in such an effort for Wisconsin DOT if asked.</p>

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?	Additional Comments
<p>Maryland</p> <p>Thomas G. Heimiller Real Estate Administration Manager Office of Real Estate Maryland State Highway Administration 707 N. Calvert St. M-303 Baltimore, MD 21202</p> <p>theimiller@sha.state.md.us Phone: 410-545-0418 Toll Free: 1-888-204-4245 Fax: 410-209-5050</p>	<p>Yes</p> <p>Most recently we have had significant changes to our surplus land sales operation. The affects of this have not totally played out yet and the process is still evolving.</p> <p>We have also started greater use of "mobile" acquisition teams to do state wide work in support of our 7 district offices. This has called for the cross training of our HQ's support staff to do acquisition work and led to greater flexibility in meeting our program demands with going to consultants for direct acquisition activities.</p>	<p>Valuation Methodologies--Yes Use of Consultants--Partially Use of In-House Staff--Yes Property Management--Yes/Partially Litigation--Yes Local Public Agency (LPA) programs--Yes</p>	<p>Yes to all.</p>	<p>Thank you for the opportunity to respond to your questionnaire. Maryland has participated in a "peer exchange" for over 30 years with the other states within Region III (Maryland, Delaware, Virginia, West Virginia and Pennsylvania) along with FHWA. An annual meeting is held with each state acting as host in rotation. This year it will be hosted by Virginia. In the past we have had both federal and state participation from outside of the region.</p>	<p>As mentioned above the Region III meetings have provided a very useful forum for the exchange of information and ideas between the five states involved and any others who wish to attend. Beside the main line right of way topics of acquisition, relocation assistance, property management and appraisals, we also have sessions for utility engineers and legal topics. Over the past 10 years we have seen a growing participation by local public agencies and even consultants.</p> <p>Please contact me if you would like any additional information. My staff and I would glad to share any information we have on how our meetings have been set up etc.</p>

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
<p>Maine</p> <p>Ray Quimby ray.quimby@maine.gov</p>	<p>Yes.</p> <p>Virtually all areas. We eliminated Right of Way as a separate organizational division and spread the employees out over three functional classification based Programs in the Bureau of Project Development.</p>	<p>Valuation Methodologies--Yes. We use four levels of appraisal reporting standards, a waiver format; value finding format; short form format and full narrative. The bulk of our acquisitions (80%) are under the waiver threshold limit so simple formats predominate in Maine.</p> <p>Use of Consultants—Partially. Over the last 5 years, we've expanded the use of consultant services from just appraisal to include negotiations, relocation and property management. Appraisal review will remain in house as a quality check. Consultant appraisers have to be Certified General, and relocation/acquisition consultants are predominately DOT or FHWA retirees. In the last year, our use of consultants peaked with about 50 % of the workload being delivered by consultant services. Due to financial constraints, we're now delivering more work in house. We don't provide formal training for consultants.</p> <p>Use of In-House Staff--No. Training for in-house staff has been primarily OJT, Appraisal Institute and IR/WA Courses. Our experience has been bringing people in entry level positions and "institutionalizing" them as one of our manager puts it, is superior to bringing the expertise in all trained. As an example, we hired several Certified General appraisers and have had many, sometimes heated, discussions relative to USPAP vs. the Uniform Act. Productivity of In house however, staff is compatible or exceeds consultant services. Retention has been and will continue to be a problem as the number of rungs on the right of way career ladder are reduced and the classifications, particularly at the entry level become more generic. The philosophy here is moving towards "generalist" and away from specialists, making retention of right of way skills a challenge. While this works in a "waiver" environment, it doesn't build the skills necessary to deliver the larger, more complex takings.</p> <p>Property Management—Yes.</p> <p>Litigation--Partially. We have a two-step process with a quasijudicial review being done prior to Superior Court, and most cases are settled before going to Court. Given the low value nature of most of our takings, I think our system works reasonably well. (pre-trial settlement strategies, mediation processes)</p> <p>Local Public Agency (LPA) programs--No. We're not staffed adequately to administer the Right of Way component of LPA programs.(administration, grant programs)?</p>	<p>I'd answer this question by prioritizing. The area most in need of improvement is Use of In House staff, next is LPA's then Legal and Consultants.</p>	<p>No.</p>

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
<p>Washington</p> <p>Gerry Gallinger Director, Real Estate Services Washington State Department of Transportation 360-705-7305 - voice 360-951-9656 - cell 360-705-6811 - fax galling@wsdot.wa.gov</p>	<p>Yes</p> <p>We have delegated total administrative settlement authority to our regions.</p>	<p>Valuation Methodologies--Yes Use of Consultants--Partially Use of In-House Staff--Yes Property Management--Yes Litigation--Yes Local Public Agency (LPA) programs--Yes</p>	<p>Valuation Methodologies--Yes Use of Consultants--Yes Use of In-House Staff--Yes Property Management--Yes Litigation--Yes Local Public Agency (LPA) programs--Yes</p>	<p>No.</p>
<p>California</p> <p>Jeff Grigg, Director, Property Services Ph: 787-4885; Fax: 787-4100 jgrigg@highways.gov.sk.ca</p>	<p>Yes.</p> <p>Yard site policy was adjusted to reflect current concepts for proximity and disruption damages for occupied dwellings. Updated tree compensation rates.</p>	<p>Yes.</p> <p>Valuation Methodologies--Appraisals performed in accordance with the Appraisal Institute of Canada and the International Right of Way Association.</p> <p>Use of Consultants--Limited use for independent appraisals related to expropriation.</p> <p>Use of In-House Staff-- In-house staff include AACI and IRWA designations and courses. Retention and productivity is excellent.</p> <p>Property Management--Yes consistent current practices and guidelines for sales and leases are applied.</p> <p>Litigation--Saskatchewan has the lowest percentage of expropriation within Canada and compensation has always been resolved without litigation through formal mediation.</p> <p>Local Public Agency (LPA) programs--The Public and Private Rights Board offers mediation services at no cost to the owner.</p>	<p>Valuation Methodologies--No Use of Consultants--No Use of In-House Staff--No Property Management--No Litigation--N/A Local Public Agency (LPA) programs--sufficient</p>	<p>No.</p>

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
Louisiana Pamela Leon RE Acquisition Chief (225) 237-1225 PamLeon@dotd.louisiana.gov	<p>Because of decreasing staff numbers, our section is having to rely more and more on outsourcing acquisition activities. This puts us in a position of having to train consultants and then monitor their activities and provide technical assistance.</p> <p>One significant change has been the introduction of a new Real Estate application that integrates data collection from all participants in the process - Real Estate Management, staff agents and review appraisers and consultants. This system allows real time data collection and access and is a great aid in project management.</p> <p>We also instituted a Joint Review Process several years ago, which coordinates input from design, environmental, real estate professionals when preliminary right of way maps are available. This enables us to pinpoint design and right of way problems at an early stage, when they can be corrected in a more timely manner.</p>	Valuation Methodologies--Yes Use of Consultants--Partially Use of In-House Staff--Yes Property Management--Partially Litigation--Yes Local Public Agency (LPA) programs--Partially	Valuation Methodologies--maybe Use of Consultant--definitely Use of In-House Staff--maybe Property Management--maybe Litigation--maybe Local Public Agency (LPA) programs-- maybe	Yes. Several years ago, Louisiana and Arkansas did a peer review of their appraisal processes.

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?	Additional Comments
Nebraska Randy Needham Right of Way Manager Nebraska Department of Roads rneedham@dor.state.ne.us	We have made what I would describe as incremental improvements over the last five years, the sum total of which might be described as significant. All programs were affected.	We try to employ "best practices" in all areas.	Definitely in all areas	No.	
Virginia L.S. 'Sam' Hester L.Hester@VirginiaDOT.org	Yes. Property Management, Relocation, Appraisal, The Right of Way and Utilities Management System (RUMS) and Acquisition.	Valuation Methodologies – Yes (Methodologies) Use of Consultants - Yes Use of In-House Staff - As much as is allowed by Human Resource Policy and Procedures. Property Management - Yes Litigation - Yes Local Public Agency (LPA) programs -- Yes -The Right of Way and Utilities Division is responsible for the oversight of the acquisition program when administered by LPA's. Funding Agreements between VDOT and LPA's are normally administered by the Local Assistance Division.	Valuation Methodologies - Yes Use of Consultants - Yes Use of In-House Staff - Yes Property Management - Yes Litigation - Yes Local Public Agency (LPA) programs - Yes	Yes - The Mid-Atlantic Federal/State Highway Conference and the AASHTO Sub-Committee for Right of Way and Utilities.	We at VDOT feel that we have a strong Right of Way and Utilities Program; however, we are always open for suggestions on how to improve.

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?	Additional Comments
Indiana Alan Curson Acquisition Assistance Manager Land Acquisition Division 317.233.9146 ACURSON@indot.state.in.us	Yes. Appraising, Buying, Relocation, Property Management, Local Public Agencies.	Valuation Methodologies – No Use of Consultants - Qualifications: YES, Quantity: YES, Training: NO Use of In-House Staff - Yes Property Management - Yes Litigation - Yes Local Public Agency (LPA) programs -- Yes	Valuation Methodologies - Definitely Use of Consultants - Appraising: Definitely, Buying: Definitely, Relocation: Maybe Use of In-House Staff - Maybe Property Management - Maybe Litigation - Definitely Local Public Agency (LPA) programs - Definitely	No	Training of consultants takes a great deal of time. With the anticipated increase in workload, new, inexperienced agents will require training.

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
Missouri John Martin, Right of Way Liaison, Missouri Department of Transportation john.martin@modot.mo.gov 573-526-4534	Missouri has a Quality Assurance Review program that examines all right of way functions. QAR uses teams to review files, appraisals and reports to measure compliance with policies and procedures, and discover and disseminate best practices to all districts. Teams include district staff that is familiar with the function under review, by traveling to other districts. This allows district interaction and idea sharing. Although the actual work can be dull and uninspiring, the team members appreciate the opportunity to interact with peers. Over the years, the QAR has evolved to more specific topics. For example, earlier we might do full reviews of Standard Format (most complex) appraisals. Later we would do a more focused look at the Highest and Best Use analysis and/or other specific areas of the appraisal format. The 2004 QAR will attempt to quantify the reasons for condemnation, and quantify differences in appraisals prepared for right of way acquisition, compared to appraisals prepared for MoDOT's legal counsel. Missouri's Property Management is currently under reorganization. Missouri's successful Mediation program is about 5 years old.	Valuation Methodologies - Yes Use of Consultants – Missouri has a reasonably good application/approval/evaluation process for individual appraisers and an application/approval process for negotiators. Missouri is weak in dealing with out of state corporate providers. A current low work volume and the historic low quality of consultant provided services limits Missouri's interest in expanding consultant services at this time. Consultant training could be improved. Use of In-House Staff – Missouri has an excellent training program to accommodate a well established career ladder for right of way personnel. Productivity is considered typical. Retention is considered strong. Property Management – Missouri draws a lot of attention and criticism in this area, so we are developing a comprehensive database of land inventory, and reorganizing the disposal process. Litigation – Missouri has a very successful mediation program. Local Public Agency (LPA) programs – Missouri's St. Louis district has a very large and extremely well managed local roads program. Right of way and LPA programs for the rest of the state would be typical. Statewide, there is an excellent network of liaisons that work closely with LPA's in engineering, funding and other areas.	Valuation Methodologies – Definitely Use of Consultants – No Use of In-House Staff – Maybe Property Management – Definitely Litigation – Definitely Local Public Agency (LPA) programs - Maybe	Missouri's FHWA office hosted a peer exchange within a year ago, and it was very beneficial.

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
Mississippi Response from Lockett Peyton lpeyton@mdot.state.ms.us Direct further comments to Daniel B. Smith ROW, Division Administrator	Value finding of up to 10,000 for uncomplicated, land only appraisals; Appraisal staff will provide comparable sales, Review appraiser will provide the 3 specific sales for each property identified as meeting value finding criteria; Acquisition Agent will pick the sale as most comparable and or utilize the range of values the sales indicated and compute the just compensation. The offer will be made based upon value finding using latitude to negotiate price and close the transaction. If requested the property will be appraised. We are going through a learning curve on this and the 2 projects we have worked I would deem a success. Our pitfalls have been we identified 60 to 70 percent of the parcels for value finding and property owners requested appraisals on about half of those we did not initially appraise. So our appraisal team stayed on the job much longer than we had anticipated. However, out of 120 parcels we had 14 condemnations, and 14 out of 60 on the other, design and title issues were about half of these condemnations. I still think this was successful, because we are putting forth a good effort to negotiate with the property owner.	Valuation Methodologies - YES Use of Consultants - Qualifications, YES, Quantity & Training - Partially Use of In-House Staff – Training YES, Productivity YES, Retention NO, Salary issues Property Management - Partially, limited by State Law Litigation - Yes only about 5% of our condemned parcels actually go to trial, have had little success using mediation, we negotiate through our legal counsel. Local Public Agency (LPA) programs - YES	Valuation Methodologies - Always interested Use of Consultants -Maybe Use of In-House Staff - Yes Property Management -YES Litigation - Maybe Local Public Agency - NO	No not to my knowledge

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
North Dakota Don H. Wolf dwolf@state.nd.us	No.	Valuation Methodologies - Yes Use of Consultants - Yes Use of In-House Staff - Yes Property Management - Yes Litigation - Yes Local Public Agency - Yes	Valuation Methodologies – No Use of Consultants – No Use of In-House Staff – Yes Property Management – No Litigation - No Local Public Agency - No	No.

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
<p>Ohio</p> <p>Douglas S. Maitland Manager, Acquisition Services Section ODOT, Office of Real Estate (614) 466-6802 dmaitlan@dot.state.oh.us</p>	<p>Yes, Ohio DOT has some significant changes. In particular, the real estate program is utilizing consultants with more frequency as in-house staffing has been downsized and acquisition work has increased. Consultants are used for all aspects of acquisition including project management, titles, appraisal, appraisal review, negotiations, closings and relocation. There has been a learning curve as we utilize consultants and attempt to have a quality product delivered in a timely manner. We find scoping to be very important. In our opinion, scoping includes both contracting language as well as face-to-face meetings frequently during a project. In general, the more upfront scoping that is done, the less problems at the end of a project.</p> <p>Continued on next page.</p>	<p>NOTE: Ohio DOT is always looking for a better way. The QAR process mandates that best practices be identified and communicated. We also have meetings with relocation experts (staff and consultants), appraisal experts (staff and consultants), with the Attorney General's Office and with the state real estate managers several times a year to review current practices, to identify problem areas and to discuss new and better ways to do things.</p> <p>Valuation Methodologies Yes - best practices have been identified and have been implemented into the procedures manual. In particular, is a template for a before and after valuation format that has been developed and has decreased quality problems. Appraisals are not "bottle necking" in review with the frequency that they once did before the template.</p> <p>Use of Consultants Yes - best practices are continually evolving. We have qualification requirements for all fee consultants performing acquisition functions. These pre requisites are at times "beefed up" when we are confronted with quality control problems. We do offer training through out the year. However, down sizing of Central Office Real Estate has impacted our ability to deliver training with the frequency that is needed. This is a problem that we have identified and are currently working on solving.</p> <p>Use of In-house staff Yes - we are always rating the performance of in-house staff. We always send out "Property Owner Opinion Surveys" to determine weak areas. Training, as indicated before, is offered, but not at the frequency that is needed. Employee retention is an issue in Ohio. Fee consultants are always offering our better people job opportunities and we do have turn over. This turn over definitely impacts competency, training needs and managerial oversight.</p> <p>Continued on next page.</p>	<p>These program areas are the same as in No. 2. The answer to this question is yes, Ohio DOT is always looking for better ways to improve efficiencies and quality.</p>	<p>No.</p>

State and Contact	Significant Changes in last 5 years?	Employ best practices in specified program areas?	Interested in improvement?	Ever hosted a peer exchange?
<p>Ohio (continued)</p> <p>Douglas S. Maitland Manager, Acquisition Services Section ODOT, Office of Real Estate (614) 466-6802 dmaitlan@dot.state.oh.us</p>	<p>Over the last 5 years and even beyond, Ohio DOT has decentralized its real estate functions and given more authority to its Regions and Districts. Quality control is reviewed by Quality Assurance reviews (QAR's), we have made local public agencies (LPA's) more self-administrating. Currently, we are focusing more and more on project management issues and are attempting to increase training in the various acquisition functions to increase the quality of the acquisition product and still maintain an expedient project delivery process.</p>	<p>Property Management Yes - we are pro active with surplus land sales and have recently won a national award from AASHTO at the Seattle conference. We are active in leasing cell tower sites that exist in our right of way.</p> <p>Litigation Yes - we are pro active with litigation. When we first started utilizing fee consultants to manage some projects, the appropriation rate was at 50% of numerous projects, while in-house projects were around 15%. We met with the consultants and told them that they would be rated based on their appropriation rates. Since that time, there is no significant differences in appropriation percentages. We have an annual Law Day once a year that bring attorneys from the Transportation Section of the Attorney General's Office together with in-house project managers and appraisers to review litigation strategies. We have researched mediation, but litigation law in Ohio does not encourage mediation and as a result, there is no benefit for an owner to mediate a settlement. However, with this said, we do settle most appropriation cases before trial.</p> <p>Local Public Agency Programs (administration, grant programs) Yes we have some pro-active LPA programs and we won a national award from AASHTO last year. This program is called the CEO Task Order and makes funding available at Ohio DOT's cost so that LPA's can utilize consultants to perform acquisition services on small projects.</p>		



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